

FILED OR

July 25, 2024 10:58 AM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: KB7125

1

HABEAS CORPUS § 2254

Whether defendant was denied his constitutional right to a speedy trial is a mixed question of fact and law. *People v. Wachawski*, 286 Mich. App. 634, 664, 780 N.W.2d 321 (2009). A trial court's factual findings supporting its ruling are reviewed for clear error while the court's ultimate determination on the constitutional question is reviewed de novo. *People v. Williams*, 475 Mich. 245, 250, 716 N.W.2d 208 (2006). Both the United States and Michigan Constitutions guarantee a criminal defendant the right to a speedy trial. U.S. Const., Am. VI; Const. 1963, Art. 1 § 20. Michigan Courts employ the Barker standard articulated by the United States Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 to determine whether a speedy trial violation occurred. See *People v. Williams*, 475 Mich. 245, 261, 716 N.W.2d 208. Under this standard, courts balance the following four factors to determine whether a defendant was denied the right to a speedy trial: (1) the length of delay; (2) reason for delay; (3) an defendant assertion of the right; and (4) the prejudice to the defendant. For a delay for over 18 months, prejudice is presumed. *People v. Collins*, 388 Mich. 680, 690, 202 N.W.2d 769, and courts must turn to remaining factors to determine whether a defendant has been deprived of the right to a speedy trial. *Williams*, 475 Mich. at 262. The time for when deciding whether the right to a speedy trial has been violated runs from the date of the defendant's arrest. See *Williams*, 475 Mich. at 261.

1:24-cv-757

Ray Kent

U.S. Magistrate Judge

In this case the defendant was arrested July, 2021 and is currently scheduled for November 25, 2024 in which will be 40 months. Even currently it has been 36 months and is well past the thrust hold. AFTER 18 months the burden shifts to the prosecution to show there was no injury. See Collins 388 Mich at 605, 202. Under the Barker test a presumptively pre-judicial delay triggers an inquiry into the other factors to be considered in the balancing of the competing interest to determine whether a defendant has been deprived of the right to speedy trial. The Prejudice Factor should be analyzed in the light of the interest of defendants which the speedy trial right was designed to protect. Barker, 407 U.S. at 532, 92 S.Ct 2182. The United States Supreme Court has recognized that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or for that matter identify. Dobbett v. United States, 505 U.S. 647, 655 112 S.Ct 2686. More over an affirmative proof of particularized prejudice is not essential to every Speedy Trial claim. See Moore v. Arizona 94 S.Ct 188, 38. The United States Supreme Court identified three interest (1) prevention of oppressive pretrial incarceration (2) minimization of anxiety and concern of the accused and (3) limitation of the possibility that the defense will be impaired.

In this case defendant has been charged with C.C.W., lab prints have been issued by a professional witness determining that the said gun have not been in defendant's possession, nor was he the registered owner of the car it was found in. The courts have prejudiced the defendant by revoking his bond in this matter after defendant refuse to plea to a lesser but not included charge of Resisting an arrest, defendant was never charged with (B.M.L.O) but was offered this charge in substitute for the C.C.W. The courts now attempt to include this case with a merged case in 2023 in which it will be 15 month before trial commence on October 17, 2024 for the current case. This is known to be fact because defendant was offered a plea for both charges (or board) and (or 1/2023) court offered defendant 12 years for both charges put together. Now that defendant have procured a bond Review on July 18, 2024 the bond in the latter case have been revoked by judge Smedley. This court have prejudiced the defendant by revoking his bond and placing on the oppressiveness of partial incarceration to cause a detrimental impact on the individual's ability to defend himself, time in jail awaiting trial has a detrimental impact on individuals.

— We ask the relief of this courts pertaining to the Speedy trial Right of the United States Supreme Court and this here Michigan Supreme Courts MCL 768.1 to review this court De NOVO an Dismiss Case

To: Clerk

This is a habeas corpus, I the defendant
Monica Michell is not bonded from habeas relief
I will testify to this information in the presents
of a Superior magistrate or any judicial officer
I have exsist state habeas corpus with no response

Name: Monica michelle

Location: Muskegon County jail
990 terrace street

Epod: E8

Muskegon County Jail
980 Terrace Street
Muskegon, MI 49440

GRAND RAPIDS MI 495

23 JUL 2024 PM 2 L



MONACO Michelle
Epod:ED

clerk, U.S. District Court
399 Federal Bldg
110 Michigan St., N.W.
Grand Rapids, Mi 49503

49503-236399